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sense of responsibility were felt, and more care exercised by those whose duty it is to disseminate and comment upon the news. The instance here under our own observation last summer has not been the only one, when an untrue and misleading report of facts, and the expression of a too hasty opinion thereon, have stirred up feelings and excited animosities which no amount of subsequent correction could atone for.

I am conscious that this has been a very imperfect and incomplete discussion of a very broad subject, but such as it is it has not been without avail if it has aided in any degree in showing that the so-called "usurpations" of the judges have not been usurpations at all, but that the application of the injunction to prevent violations of law and the consequent irreparable injury to property and civil rights, incident to strikes, has been in accordance with well-known principles of equity jurisprudence; and that if any defects are inherent in that system, or if any objections are properly applicable to it, they should be met and corrected in some other way than by that unreasoning abuse and, I may say, vilification, of the judiciary, which in these latter days seem to have become favorite pastimes with so many.

UNPUBLISHED LETTER OF CHANCELLOR JAMES KENT.*

NEW YORK, October 6th, 1828.

DEAR SIR.—Your very kind & friendly letter of the 15th ult. was duly received, and also your argument in the Case of *Ivey v. Pinson*. I have read the Pamphlet with much interest & pleasure. It is composed with masterly ability, of this there can be no doubt, & without presuming to give any opinion on a great case, still *Sub Judice*, & only argued before me on one side, I beg leave to express my highest respect for the law reasoning & doctrine of the argument, & my admiration of the spirit, & eloquence which animate it. My attention was very much fixed on the perusal, & if there be any lawyer in this State who can write a better argument in any point of view I have not the honor of his acquaintance.

As to the rest of your letter concerning my life & studies, I hardly know what to say, or to do. Your letter & argument, & character & name have impressed me so favorably, that I feel every disposition to

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oblige you, if it be not too much at my own expense. My attainments are of too ordinary a character, & far too limited, justly to provoke such curiosity. I have had nothing more to aid me in all my life than plain method, prudence, temperance & steady persevering diligence. My diligence was more remarkable for being steady & uniform, than for the degree of it, which never was excessive, so as to impair my health or eyes, or prevent all kinds of innocent & lively recreation. I would now venture to state briefly but very frankly & at your special desire, somewhat of the course & progress of my studious life. I know you cannot but smile at times at my simplicity, but I commit myself to your indulgence & honor.

I was educated at Yale College & graduated in 1781. I stood as well as any in my class, but the test of scholarship at that day was contemptible. I was only a very inferior classical scholar, & we were not required, & to this day I have never looked into a Greek book but the New Testament. My favorite studies were Geography, History, Poetry, bellesletter, &c. When the College was broken up & dispersed in July 1779 by the British, I retired to a country village & finding Blackstone's com. I read the 4th volume, parts of the work struck my taste, & the work inspired me at the age of 16 with awe, and I fondly determined to be a lawyer. In November 1781 I was placed by my father with Mr. (now called Judge) Benson, who was then attorney general at Poughkeepsie on the banks of the Hudson, & in my native County of Dutchess. There I entered on law, & was the most modest, steady, industrious student that such a place ever saw. I read the following winter *Grotius* & *Puffendorf* in huge folios, & made copious extracts. My fellow students who were more gay and gallant, thought me very odd and dull in my taste, but out of five of them four died in middle life drunkards. I was free from all dissipation, and chaste as pure virgin snow. I had never danced, or played cards, or sported with a gun, or drank anything but water. In 1782 I read *Smollets* history of England, & procured at a farmers house where I boarded, *Rapins History* (a huge folio) and read it through; and I found during the course of the last summer among my papers, my M. S. abridgment on *Rapins* dissertation on the laws and customs of the Anglo Saxons. I abridged Hales history of the common law, and the old books of practice, and read parts of Blackstone again & again. The same year I procured *Humes* History and his profound reflections & admirable eloquence struck most deeply on my youthful mind. I extracted the most admired parts and made several volumes of M. S. S. I was

admitted to the bar of the Supr. Court in January 1785, at the age of 21, and then married *without one cent of property*; for my education exhausted all my kind father's resources and left me in debt \$400.00, which took me two or three years to discharge. Why did I marry? I answer that.

At the farmers house where I boarded, one of his daughters, a little modest, lovely girl of 14 generally caught my attention & insensibly stole upon my affections, & I before I thought of love or knew what it was, I was most violently affected. I was 21, and my wife 16 when we married, & *that charming lovely girl has been the idol & solace of my life*, & is now with me in my office, unconscious that I am writing this concerning her. We have both had uniform health & the most perfect & unalloyed domestic happiness, & are both as well now & in as good spirits as when we married. We have three adult children. My son lives with me and is 26, & a lawyer, & of excellent sense, & discretion, & of the purest morals. My eldest daughter is well married, & lives the next door to me, with the intimacy of our family, my youngest daughter is now of age, she lives with me, & is my little idol.

I went to housekeeping at Poughkeepsie, 1786, in a small, snug cottage, & there I lived in charming simplicity for eight years. My practice was just about sufficient to redeem me from debt, & to maintain my wife & establishment decently, and supply me with books about as fast as I could read them. I had neglected & almost entirely forgotten my scanty knowledge of the Greek & Roman classics, & an accident turned my attention to them very suddenly. At the June Circuit in 1786, I saw Ed. Livingston (now the codifier for Louisiana) & he had a pocket Horace & read some passages to me at some office & pointed out their beauties, assuming that I well understood Horace. I said nothing, but was stung with shame & mortification, for I had forgotten even my Greek letters. I purchased immediately Horace and Virgil, a dictionary & grammar, and a Greek Lexicon & grammar and the testament, & formed my resolution promptly and decidedly to recover the lost languages.

I studied in my little cottage mornings and devoted an hour to greek and another to latin daily, I soon increased it to two for each tongue in the 24 hours, my acquaintance with the languages increased rapidly. After I had read Horace and Virgil I ventured upon Livy for the first time in my life, & after I had completed the Greek Testament I took up the Iliad, & I can hardly describe at this day ⁽¹⁾ with which I pro-

¹ Words omitted in original.

gressively read and studied in the original *Livy* & the *Iliad*. It gave me inspiration, I purchased a French Dictionary & grammar & began French & gave an hour to this language daily. I appropriated the business part of the day to law, & read Co. Litt, & made copious notes. I devoted evening to English literature in company with my wife. From 1788 to 1798 I steadily divided the day into five portions, & allotted them to *Greek, Latin, law and business, French & English*. I mastered the best of the *Greek, Latin* and *French* classics, & as well as the best English & law books at hand & read Mackiavel & all collateral branches of English history, such as Libeletines H. 2nd Bacons H. 7th. Lord Clarendon on the great Rebellion, &c. I even sent to England as early as 1790 for Warbertons divine legation *Lusiad*.

My library which started from nothing grew with my growth, & it has now attained to upwards of 3000 volumes, & it is pretty well selected, for there is scarcely a work, authority or document referred to in the 3 volumes of my commentaries but what has a place in my own library, next to my wife, my library has been the solace of my greatest pleasure & devoted attachment.

The year 1793 was another era in my life, I removed from Poughkeepsie to the city of New York, with which I had become well acquainted, & I wanted to get rid of the incumbrance of a dull law partner at P, but though I had been in practice nine years, I had acquired very little property. My furniture & library were very scanty, & I had not \$500 extra in the world. But I owed nothing, & came to the City with good character & with a scolar's reputation. My newspaper writings, & speeches in the assembly had given me some notoriety. I do not believe any human being ever lived with more pure and perfect domestic repose & simplicity & happiness than I did for those nine years.

I was appointed professor of law in Columbia College late in 1793 & this drove me to deeper legal researches. I read that year in the original Bynkersheek Quinctillion & Ciceros rhetorical works, besides reports & digests, & began the compilation of law lectures. I read a course in 1794 & 5 to about 40 gentlemen of the first rank in the City. They were very well received, but I have long since discovered them to have been slight & trashy productions. I wanted Judicial labors to teach me precision. I dropped the course after one term, & soon became considerably involved in business, but was never fond of, nor much distinguished in the contentions of the bar.

I had commenced in 1786 to be a zealous Federalist & read everything on politics. I got the Federalist almost by heart, and became intimate with Hamilton. I entered with ardor into the federal politics against France in 1793, & my hostility to the French democracy, & to French power beat with strong pulsation down to the battle of Waterloo, now you know my politics.

I had excellent health owing to the love of simple diet, & to all kinds of temperance, & never read late nights. I rambled daily with my wife on foot over the hills, we were never asunder. In 1795 we made a voyage through the lakes George & Champlain. In 1797 we run over the 4 New England States. As I was born and nourished in boyish days among the highlands East of the Hudson, I have always loved rural & wild scenery, & the sight of mountains & hills, & woods & streams always enchanted me, and do still. This is owing in part to early associations, & it is one secret of my uniform health & chirfulness.

In 1796 I began my career of official life. It came upon me entirely unsolicited & unexpected. In Feby 1796 Governor Jay wrote me a letter stating that the office of *Master in Chancery* was vacant, & wished to know confidentially whether I would accept. I wrote a very respectful but very laconic answer. It was "That I was content to accept of the office if appointed." The same day I received the appointment, & was astonished to learn that there were 16 professed applicants all disappointed. This office gave me the monopoly of the business of that office, for there was but one other master in N York. The office kept me very busy in petty details and outdoor concerns, but was profitable. In March 1797 I was appointed *Recorder of N. York*. This was done at Albany, & without my knowledge that the office was even vacant or expected to be. The first I heard of it was the appointed announced in the papers. This was very gratifying to me, because it was a judicial office. I thought that it would relieve me from the drudgery of practice & gave me a way of displaying what I knew; & of being useful entirely to my taste. I pursued my studies with increased appetite & enlarged my law library very much. But I was encumbered with office business, for the governor allowed me to retain the other office also, & with these joint duties & counsel business in the Sup Court, I made a great deal of money that year. In Feby 1798 I was offered by Gov Jay & accepted the office of youngest *Judge of the Supreme Court*. This was the summit of my ambition. My object was to return back to Poughkeepsie, & resume my studies,

& ride the circuits, & inhale country air, & enjoy *otium cum dignitate*. I never dreamed of volumes of reports & written opinions. Such things were not then thought of. I retired back to P in the Spring of 1798 & in that Summer rode all over the Western wilderness & was delighted. I returned home and began my Greek & Latin, & French, & English, & law classics as formerly, & made wonderful progress in books that year.

In 1799 I was obliged to remove to Albany, in that I might not be too much from home, & *there I remained stationary for 24 years*. When I came to the bench there ⁽¹⁾ no reports or State precedents. The opinions from the bench were delivered *ore tenus*. We had no law of our own, & nobody knew what it was. I first introduced a thorough examination of cases & written opinions. In Jan'y T 1799 the 2d case reported in 1st Johnsons cases, of *Ludlow v. Dale*² is a sample of the earliest. The judges when we met all assumed that foreign sentences were only good *prime facie*. I presented and read my written opinion that they were conclusive & they all gave up to me & so I read it in court as it stands. This was the commencement of a new plan, & then was laid the first stone in the subsequently erected temple of our jurisprudence.

Between that time & 1804 I rode my share of circuits, attended all the terms, & was never absent, & was always ready in every case by the day. I read in that time ⁽³⁾ and completely abridged the latter, & made copious digests of all the English new reports and treatises as they came out. I made much use of the *Corpus Juris*, & as the Judges (Livingston excepted) knew nothing of French or civil law I had immense advantage over them. I could generally put my Brethern to rout & carry my point by mysterious want of French & civil law. The Judges were republicans & very kindly disposed to everything that was French, & this enabled me without exciting any alarm or jealousy, to make free use of such authorities & thereby enrich our commercial law.

I gradually acquired preponderating influence with my brethern, & the volumes in Johnson after I became Ch. J in 1804 show it. The first practice was for each judge to give his portion of opinions when we all agreed, but that gradually fell off, but for the two or three last years before I left the bench, I gave the most of them. I remember

¹ Word omitted in the original.

² Probably January, 1806, 1st Case in 1 John. *Ludlow v. Bowne*.

³ Blank in the original.

that in 8th Johnson all the opinions one Term are *per curiam*. The fact is I wrote them all, & proposed that course to avoid existing jealousy & many a *per curiam* opinion was so inserted for that reason.

Many of the cases decided during the 16 years I was in the Supr. Court were labored by me most unmercifully, but it was necessary under the circumstances in order to subdue opposition. We had but few American precedents. One judge was democratic, and my brother *Spencer* particularly, of a bold, vigorous, dogmatic mind, & overbearing manner. English authorities did not stand very high in those feverish times, & this led me a hundred times to attempt to bear down opposition, or flame it by exhausting research & overwhelming authority. Our Jurisprudence was probably on the whole improved by it. My mind certainly was roused, & was always kept ardent and inflamed by collision.

In 1814 I was appointed Chancellor. The office I took with considerable reluctance. It had no claims. The person who left it was stupid, & it is a curious fact that for the nine years I was in that office, there was *not a single decision, opinion or dictum of either of my two predecessors (Ch. Livingston & Ch. (1))* from 1777 to 1814 cited to me or even suggested. I took the court as if it had been a new institution, & never before known to the U. S. I had nothing to guide me, & was left at liberty to assume all such English chancery powers and jurisdiction as I thought applicable under our constitution. This gave me great scope, & I was only checked by the revision of the Senate & court of Errors. I opened the gates of the court immediately, & admitted almost gratuitously the first year 85 counsellors, though I found there had not been but 13 admitted for 13 years before. Business flowed in with a rapid tide. The result appears in the seven volumes of Johnson's Ch. reports.

My study in Equity jurisprudence was very much confined to the topics elicited by the cases. I had previously read, of course, the modern Equity reports, down to the time, & of course I read all the new ones as fast as I could procure them. I remember reading Pear Williams as early as 1792 and made a digest of the leading doctrines. The business of the court of chancery oppressed me very much, but I took my daily exercise, & my delightful country rides among the Catskill or the Vermont mountains with my wife, & kept up my health and spirits. I always took up the cases in their order, & never left one until I had finished it. This was only *doing one thing at a*

¹ Blank in original.

time. My practice was first to make myself perfectly & accurately (mathematically accurately) master of the facts. It was done by abridging the bill, & then the answers, & then the depositions, & by the time I had done this slow & tedious process I was master of the cause & ready to decide it. I saw where justice lay and the moral sense decided the cause half the time, & I then sed down to search the authorities until I had exhausted my books, & I might once & a while be embarrassed by a technical rule, but I *most always found principles suited to my views of the case*, & my object was to discuss a point ⁽¹⁾ as never to be teased with it again, & to anticipate an angry & vexatious appeal to a popular tribune by disappointed counsel.

During those years at Albany, I read a great deal of English literature, but not with the discipline of my former division of time. The avocations of business would not permit it. I had dropped the Greek as it hurt my eyes. I persevered in Latin, & used to read Virgil, Horace, Juvenal, Lucan, Salust, Tacitus, &c & Ciceros offices, & some of them annually. I have read Juvenal, Horace & Virgil eight or ten times. I read a great deal in Pothiers works and always consulted him when applicable. I read the Ed & 2 reviews & Annl register *ab initio* & thoroughly, & voyages & travels & the Waverly novels &c, as other folks did. I have always been excessively fond of voyages and travels.

In 1823 a solemn era in my life arrived. I retired from the office at the age of 60, & then immediately with my son visited the Eastern States. On my return the solitude of my private office & the new dynasty did not please me. I besides would want income to live as I had been accustomed. My eldest daughter was permanently settled in N York, & I resolved to move away from Albany, & I ventured to come down to N. Y. & be Chamber Counsel, & the trustees of Columbia College immediately tendered me again the old office of professor which had been dormant from 1795. It had no salary, but I must do something for a living, & I undertook (but exceedingly against my inclination) to write & deliver law lectures. In the two characters of Chamber Counsellor and College lecturer, I succeeded by steady perseverance beyond my most sanguine expectations, & upon the whole the five years I have lived here in this City since 1823 have been happy & prosperous, & I live aside of my daughter, & I take excursions every Summer with my wife & daughter all over the country. I have been twice with he ⁽²⁾ Canada & in every direction. I never had

¹ "So" omitted.

² So in original.

better health. I walk the battery uniformly before breakfast. I give a great many written opinions, & having got heartily tired of lecturing I abandoned it, & it was my son that pressed me to prepare a volume of lectures for the press. I had no idea of publishing them when I delivered them. I wrote over one volume & published it as you know. This led me to remodel & enlarge, & now the 3rd volume will be out in a few days, & I am *obliged to write a 4th to complete my law.*

My reading now is as you may well suppose, quite desultory, but still I read with as much zeal and pleasure as ever, I was never more engaged in my life than during the last Summer. I accepted the trust of receiver to the Franklin (insolvent) Bank, & it has occupied, & perplexed, & vexed me daily, & I had to write part of the 3rd volume, & search books a good deal for that very object, and I have revised the proof sheet.

If I had a convenient opportunity (though I do not see how I can have one) I would send the 3rd volume out to you, & another to our excellent friend, Governor Carroll, to whom I beg you will be so good as to present my best respects & the expression of my great esteem.

Your suggestion of an Equity treatise contains a noble outline of a great & useful work, but I cannot & will not enter on such a task. I have much more to lose than to gain & I am quite tired of Equity law. I have done my part, & choose to live more at my ease, & to be prepared for the approaching infirmities of age.—On reviewing what I have written, I had thoughts of burning it, I speak of myself too entirely, & it is entirely against my habit or taste, but I see no other way fairly to meet your desires.

I am with great respect and good wishes,

JAMES KENT.

Thomas Washington, Esq.